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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/862,652

05/21/2001

John A. Doherty

5437.05

8718

7590

08/04/2004

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EXAMINER

GANEY, STEVEN J

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 08/04/2004

*21*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/862,652

Applicant(s)

DOHERTY ET AL.

Examiner

Steven J. Ganey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12-41 is/are pending in the application.
- 4a) Of the above claim(s) 25-28 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 36 is/are allowed.
- 6) ☒ Claim(s) 12-14, 17-24, 29, 30, 33-38 and 41 is/are rejected.
- 7) ☒ Claim(s) 15, 16, 31, 32, 39 and 40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 16, 19, 20.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

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## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of claims 12-24 and 29-41 in Paper No. 1414 is acknowledged. The traversal is on the ground(s) that the subject matter in the two groups is very closely related. This is not found persuasive because the subject matter is not related as indicated by the separate classification in the art and since in Group I the subject matter is for a remote controlled distribution apparatus and in Group II the subject matter is directed to a remote controlled snow removal apparatus.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 25-28 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 14.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 12-14, 17-21, 29, 30, 33-35, 37, 38 and 41 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Anderson '973.

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Anderson '973 shows a remote controlled material distribution apparatus comprising all the featured elements of the instant invention.

5. Claims 29, 30, 33, 34, 37, 38 and 41 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Monson et al '100.

Monson et al '100 shows a remote controlled material distribution apparatus comprising all the featured elements of the instant invention.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson '973 in view of Monson et al '100.

Anderson '973 shows a remote controlled material distribution apparatus comprising all the featured elements of the instant invention, except for the apparatus including a second container and having a control signal for controlling the distribution, which includes a level of service control signal. Monson et al '100 shows a remote controlled material distribution apparatus comprising a plurality of containers 15 having a control signal for controlling the distribution which includes a level of service control signal, see col. 4, lines 58-66, col. 8, lines 46-57 and col. 11, lines 18-29. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Anderson '973 with a second

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container for carrying a second material, as taught by Monson et al '100, since such a modification would allow different types of fertilizers to be applied to different types of soil such that each and every location of a field will receive the appropriate quantity and type of fertilizer.

*Allowable Subject Matter*

8. Claim 36 is allowed.
9. Claims 15, 16, 31, 32, 39 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (703) 308-2585. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday from 8:00 AM to 5:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar, can be reached on (703) 308-2087. The fax phone number for this Group is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

sjg

7/27/04

  
**STEVEN J. GANEY**  
**PRIMARY EXAMINER**  
7/27/04